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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,906	06/27/2003	James A. Kost	MPEE2 12375-1-1	7529

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EXAMINER

BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,906

Applicant(s)

KOST ET AL.

Examiner

Victor Batson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 88-95, 100-115, 117-119, 121, 122, 124, 125, 127, 128, 133-135 and 137-145 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 88-95,100-115,117-119,121,122,124,125,127,128,133-135 and 137-145.

Claim Objections

Claims 88-95, 100-113 are objected to because of the following informalities: In claim 88 line 4, "said support mount assembly" lacks proper antecedent basis and should probably be changed to "said support assembly". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

1. Claims 88-95, 100-104, 106, 114, 115, 117-119, 124, 133, 137, 140 are rejected under 35 U.S.C. 102(e) as being anticipated by Malinowski (6,102,131).

Malinowski discloses a snowplow blade mount having all of applicant's claimed structure including a frame mount assembly (including 42), a lift mount assembly (including 44), a support assembly (including members 54) having a connection end (including 58), and a plow mount assembly, with the plow mount assembly detachably connected to the support assembly and including a leg support 48 as shown in figure 7. It is noted that latch bars 50 & 52 are considered removable pins since they are

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removable from sockets 58 & 60. It is noted that the entrance structure of sockets 58 & 60 are considered guide sections and landings, with the outermost edge being considered the guide section (see figure 7).

2. Claims 88-95, 100-105, 107, 108, 112, 114, 115, 117-119, 124, 133, 137, 140 are rejected under 35 U.S.C. 102(b) as being anticipated by Behrens et al. (5,806,214).

Behrens et al. discloses a snowplow blade mount having all of applicant's claimed structure including a frame mount assembly (32), a lift mount assembly (40), a support assembly (26) having a connection end and a plow mount assembly, with the plow mount assembly detachably connected to the support assembly and including a leg support 48 as shown in figure 1. Concerning claim 98, the frame member connected directly to the top of leg support 48 is considered a bumper plate. Behrens et al. further discloses a lift mount assembly 38. Concerning claims 107 & 108, members 48 are also considered the extension legs. Concerning claims 112, member 44 is considered a skid plate.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 109, 139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malinowski (6,102,131) in view of Pieper (5,353,530).

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Malinowski discloses a snowplow blade mount assembly as described previously, but lacks including at least one auxiliary light connector to connect an auxiliary light.

Pieper teaches that it is notoriously old and well known in the art to use auxiliary lights and light connectors with snowplows. Using lights with snowplows allows the operator to better plow at night.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the snowplow blade mount assembly of Malinowski to include at least one auxiliary light and light connector as taught by Pieper, to enhance the ability of an operator to plow at night.

4. Claim 110 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malinowski (6,102,131) in view of Willis, Sr. (4,459,769).

Malinowski discloses a snowplow blade mount assembly as described previously, but lacks including a deflector flap secured to the top edge of the plow blade.

Willis, Sr. teaches that it is old and well known in the art to connect a deflector flap 101 to the top edge of a snowplow, to prevent snow from moving over the plow blade.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the snowplow blade mount assembly of Malinowski to include a deflector flap secured to the top of the blade as taught by Willis, Sr., to prevent snow from moving over the plow blade.

5. Claims 121,122,125,127,128,134,135 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malinowski (6,102,131).

Malinowski discloses a snowplow blade mount assembly as described previously, but lacks specifying that the pins are secured in position by removable pin clips.

The examiner takes official notice that is notoriously old and well known in the art to secure pins with removable pin clips to allow the pins to be easily removed for disassembly.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the snowplow blade mount assembly of Malinowski to include the use of removable pin clips to secure the pins, to allow the pins to be easily removed for disassembly.

6. Claims 121,122,125,127,128,134,135,138,141,144 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behrens et al. (5,806,214).

Behrens et al. discloses a snowplow blade mount assembly as described previously, but lacks specifying that the pins are secured in position by removable pin clips.

The examiner takes official notice that is notoriously old and well known in the art to secure pins with removable pin clips to allow the pins to be easily removed for disassembly.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the snowplow blade mount assembly of Behrens et al. to include the use of removable pin clips to secure the pins, to allow the pins to be easily removed for disassembly.

7. Claims 109,139,142,143,145 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behrens et al. (5,806,214) in view of Pieper (5,353,530).

Behrens et al. discloses a snowplow blade mount assembly as described previously, but lacks including at least one auxiliary light connector to connect an auxiliary light.

Pieper teaches that it is notoriously old and well known in the art to use auxiliary lights and light connectors with snowplows. Using lights with snowplows allows the operator to better plow at night.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the snowplow blade mount assembly of Behrens et al. to include at least one auxiliary light and light connector as taught by Pieper, to enhance the ability of an operator to plow at night.

8. Claims 110,111,113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behrens et al. (5,806,214) in view of Willis, Sr. (4,459,769).

Behrens et al. discloses a snowplow blade mount assembly as described previously, but lacks including a deflector flap secured to the top edge of the plow blade.

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Willis, Sr. teaches that it is old and well known in the art to connect a deflector flap 101 to the top edge of a snowplow, to prevent snow from moving over the plow blade.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the snowplow blade mount assembly of Behrens et al. to include a deflector flap secured to the top of the blade as taught by Willis, Sr., to prevent snow from moving over the plow blade.

Response to Arguments

Applicant's arguments filed 1/18/05 have been fully considered but they are not persuasive. Applicant argues that claims 88 & 114 have been clarified by adding limitations regarding a lift mount assembly at least partially supported by the support mount assembly. It is first noted that in the claims, applicant established antecedent basis for a "support assembly" not a "support mount assembly". Additionally, as set forth in the above rejection, member 44 of Malinowski (6,102,131) is considered the lift mount assembly. Furthermore, the examiner does not agree with the reading of Malinowski set forth in applicant's arguments (pages 14-15). For example, as set forth in the previous rejections and the rejection above, frame section 42 is considered part of the frame mount assembly, not the plow mount assembly as argued by applicant. Additionally, in view of applicant's amendments, frame members 44 are now considered the lift mount assembly, not part of the support assembly as argued by applicant.

Regarding applicant's arguments (page 15) directed to the limitations of the plow mount assembly not being pivotally connected to the support assembly, it is noted that

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"connected to one another" includes being joined together, but is broader than that, in that two things can be "connected" to each other by way of their common connection to something else. – *Kreis AG v. American Hospital Supply Corp.* (DC NIII) 192 USPQ 585.

Regarding applicant's arguments (page 15) that part of the side plates of Malinowski extends above the bumper, it is the examiner's position that all of the frame and mounting assemblies including part of the side plates 54 extend below the bumper of Malinowski as shown in figure 7.

Applicant argues that Behrens has similar deficiencies as Malinowski, and sets forth applicant's interpretation of the support assembly, plow mount assembly and frame mount assembly which is different than that set forth by the examiner. It is the examiner's position that the interpretation set forth in the rejection is a viable interpretation given applicant's lack of specific physical structure relating to the various assemblies. Therefore, applicant's arguments (page 16 & argument "C" pages 18-19) are moot in view of the examiner's interpretation of the structure of Behrens.

In response to applicant's arguments against the references individually (page 17), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It is noted that Pieper is used to teach that it is old and well known in the art to use auxiliary lights and connectors with snowplows.

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In response to applicant's arguments (pages 18-19) that the pending claims exclude connection pins that connect the support assembly to the frame mount assembly, applicant's arguments are more limiting than the claims themselves. Specifically, it is noted that the phrase "is designed to at least partially telescopically receive" is an intended use recitation lacking in specific structure.

In response to applicant's arguments against the references individually (arguments E & F in view of Willis - page 20), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It is noted that Willis is used to teach that it is old and well known in the art to use a deflector flap with snowplows.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 24, 2005



Victor Batson
Primary Examiner
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